

§ 115.35 Specialized training: Medical and mental health care.

(a) The agency shall provide specialized training to DHS or agency employees who serve as full- and part-time medical practitioners or full- and part-time mental health practitioners in immigration detention facilities where medical and mental health care is provided.

(b) The training required by this section shall cover, at a minimum, the following topics:

(1) How to detect and assess signs of sexual abuse;

(2) How to respond effectively and professionally to victims of sexual abuse,

(3) How and to whom to report allegations or suspicions of sexual abuse, and

(4) How to preserve physical evidence of sexual abuse. If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.

(c) The agency shall review and approve the facility's policy and procedures to ensure that facility medical staff is trained in procedures for examining and treating victims of sexual abuse, in facilities where medical staff may be assigned these activities.

ASSESSMENT FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

§ 115.41 Assessment for risk of victimization and abusiveness.

(a) The facility shall assess all detainees on intake to identify those likely to be sexual aggressors or sexual abuse victims and shall house detainees to prevent sexual abuse, taking necessary steps to mitigate any such danger. Each new arrival shall be kept separate from the general population until he/she is classified and may be housed accordingly.

(b) The initial classification process and initial housing assignment should be completed within twelve hours of admission to the facility.

(c) The facility shall also consider, to the extent that the information is available, the following criteria to assess detainees for risk of sexual victimization:

(1) Whether the detainee has a mental, physical, or developmental disability;

(2) The age of the detainee;

(3) The physical build and appearance of the detainee;

(4) Whether the detainee has previously been incarcerated or detained;

(5) The nature of the detainee's criminal history;

(6) Whether the detainee has any convictions for sex offenses against an adult or child;

(7) Whether the detainee has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender non-conforming;

(8) Whether the detainee has self-identified as having previously experienced sexual victimization; and

(9) The detainee's own concerns about his or her physical safety.

(d) The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the facility, in assessing detainees for risk of being sexually abusive.

(e) The facility shall reassess each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment, and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization.

(f) Detainees shall not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (c)(1), (c)(7), (c)(8), or (c)(9) of this section.

(g) The facility shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the detainee's detriment by staff or other detainees or inmates.

§ 115.42 Use of assessment information.

(a) The facility shall use the information from the risk assessment under